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OFFICE OF PETITIONS

In re Patent No. 7,074,952	:	DECISION ON REQUEST
Chen, et al.	:	FOR RECONSIDERATION OF
Issue Date: July 11, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/807,919	:	and
Filed: March 24, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.3211.1002-021	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed September 6, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from seventeen (17) days to forty-one(41)days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of forty-one**(41)** days.

On July 11, 2006, the above-identified application matured into U.S. Patent No. 7,074,952. The instant request for reconsideration filed September 6, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 17 days. Patentees dispute the reduction of twenty-four(24) days due to late receipt of the issue fee, as the issue fee was timely filed.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 42 days was reduced by 24 days for applicants' late submission of the issue fee on May 24, 2006. See 37 CFR 1.704(b). (The initial determination of PTA of 42 days was also reduced by one day for applicants' late submission of a RCE on October 6, 2005. Applicants do not dispute this one day reduction.)


A review of the application record supports a conclusion that applicants timely responded to the Notice of Allowance, mailed January 31, 2006. A review of the application record reveals that the issue fee, the publication fee, and a completed PTOL-85B were filed on April 24, 2006, not May 24, 2006, as is listed in the Office's Patent Term Adjustment Calculations for the above-identified patent.

In view thereof, the patent term adjustment indicated in the patent should have been forty-one **(41)** days.

The fee under § 1.18(e) is required on petition under § 1.705(d) and will not be refunded. Nor will the fee be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by forty-one(41) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,074,952 B2

DATED : July 11, 2006

INVENTOR(S) : Chen et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (17) days

Delete the phrase "by 17" and insert – by 41 days--